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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re A.D., a Person Coming Under the Juvenile Court Law.	
ORANGE COUNTY SOCIAL SERVICES AGENCY, Plaintiff and Respondent, v. J.B., Defendant and Appellant.	G041079 (Super. Ct. No. DP015237) O P I N I O N

Appeal from an order of the Superior Court of Orange County, James Patrick Marion, Judge. Affirmed.

Marsha F. Levine, under appointment by the Court of Appeal, for Defendant and Appellant.

Benjamin P. de Mayo, County Counsel, and Karen L. Christensen, Deputy County Counsel, for Plaintiff and Respondent.

* * *

J.B. (grandmother) appeals from the juvenile court's order terminating her guardianship over her now eight-year-old granddaughter, A.D. (Welf. & Inst. Code, § 366.26 (.26 hearing).) Grandmother contends the juvenile court failed to keep adequate records of its communication with the Florida court that had established grandmother's guardianship, as required by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (Fam. Code, § 3400 et seq.; all further undesignated statutory references are to the Family Code). Specifically, grandmother argues the juvenile court's allegedly inadequate record-keeping under section 3410, subdivision (e), rendered void the Florida court's purported relinquishment of jurisdiction. Grandmother also asserts the juvenile court abused its discretion by declining to find California an inconvenient forum for these proceedings. (§ 3427.) As we explain below, neither of these contentions has merit, and we therefore affirm the juvenile court's order.

I

FACTUAL AND PROCEDURAL BACKGROUND

Anaheim police officers and Orange County Social Services Agency (SSA) detained six-year-old A.D. in April 2007 when her mother telephoned police requesting to be taken to "detox." Mother and A.D. had been living "on and off the street," and periodically staying with "a guy [mother] met on the street." A.D. reported mother "is not a good mother when she drinks 'Vodka and Beer.'"

SSA learned mother and father had subjected A.D. and a half-sister, K.D., to an earlier dependency in Florida in 2001 based on mother's ongoing drug and alcohol abuse. K.D. was adopted through a private adoption agency, A.D. was placed with grandmother and, by the time the Florida dependency closed in October 2006, the Florida court established grandmother as A.D.'s legal guardian. Grandmother brought A.D. to

California in early 2007, where they stayed with A.D.'s parents for several months. In late April, grandmother returned to Florida to retrieve some personal belongings, leaving A.D. alone with mother and father. Alleging father was abusive, mother took A.D. with her to the streets, where she was soon detained.

SSA contacted grandmother in Florida. She cooperated in providing details about A.D.'s life, but also sent a letter stating: "I have carefully considered [A.D.'s] situation[]and wishes and have decided it is in her best interest to relinquish custody to the State of California and my son . . . and his wife . . . . [¶] During the time I have had [A.D.] in my care I have always known that it was her desire to be with her parents. The current situation in California now gives her and her parents the opportunity to be together."

Grandmother, however, soon returned to California. The juvenile court appointed counsel for her, and counsel informed the court that grandmother intended to stay in California. At a hearing on June 12, 2007, and a subsequent hearing a week later, the juvenile court explained on the record that, pursuant to the UCCJEA, it had contacted the Florida court that established grandmother's guardianship over A.D., and the Florida court relinquished jurisdiction over custody matters involving A.D. in favor of the juvenile court assuming jurisdiction. Grandmother then pleaded "nolo [contendere]" to SSA's dependency petition. The petition alleged grandmother failed to protect or provide for A.D. by leaving her with mother and father, who had a history of substantiated child abuse, consigned A.D. to inappropriate caretakers without food or shelter, exposed her to domestic violence, and subjected her to the problems inherent in their unresolved substance abuse issues. (Welf. & Inst. Code, § 300, subds. (b) & (g).) The juvenile court sustained the petition. A.D. thrived with the foster parents with whom the juvenile court

placed her in May 2007; the foster parents bonded with her, became her de facto parents (Cal. Rules of Court, rule 5.502(10)) in May 2008, and committed to adopting her.

Suffice to say, the reunification period proved unsuccessful, with grandmother relocating alternately between Florida and California, and living with father in motels or in her car with her dog while in California. She did not establish a residence, employment, or stable contact information during the periods she lived in California, and when she lived in Florida, she was inconsistent in attending her counseling sessions and appointments with social workers, and her contact with A.D. was intermittent. By April 2008, A.D. requested fewer telephone calls with grandmother because they prevented her from participating in activities, and grandmother had no contact with A.D. between May 2008 and the .26 hearing in August 2008. The juvenile court terminated parental rights and grandmother's guardianship at the .26 hearing, and grandmother now appeals.

II

DISCUSSION

A. *The Juvenile Court's Record of Its Intercourt Communication Was Adequate*

Grandmother contends the juvenile court erred in maintaining jurisdiction over A.D. after initially assuming emergency jurisdiction over her because "there is nothing in the record to substantiate that the Florida court either declined jurisdiction or determined that California was a more convenient forum to adjudicate the matter of [A.D.]'s custody." We disagree. True, "[a]ssumption of emergency jurisdiction does not confer upon the state exercising emergency jurisdiction the authority to make a permanent custody disposition." (*In re C.T.* (2002) 100 Cal.App.4th 101, 112 (*C.T.*).) But the court exercising emergency jurisdiction may obtain plenary jurisdiction if, as

here, the home state that originally vested custody with grandmother declines jurisdiction because "this state would be a more convenient forum . . . ." (§ 3423, subd. (a); for ease of reference, we hereafter abbreviate statutory subdivisions in the following manner, e.g., §§ 3410(a), 3423(a).) As grandmother acknowledges, the UCCJEA authorizes courts to communicate with each other to resolve the issue of jurisdiction. (§ 3410(a) ["A court of this state may communicate with a court in another state concerning a proceeding arising under this part"].)

Grandmother attacks the sufficiency of the record the juvenile court made of its jurisdictional discussion with the Florida court. Section 3410(d) provides that, except for routine scheduling and similar matters, intercourt contact requires "a record must be made of a communication under this section." Subdivision (e) states: "For the purposes of this section, 'record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form." (§ 3410(e).) The on-the-record notice the juvenile court provided the parties of its communication with the Florida court was sufficient.

On June 12, 2009, soon after A.D. was detained, the juvenile court appointed counsel for grandmother, and the court additionally advised the parties on the record as follows: "I did speak with the judge in Florida. I think we did reach an understanding that I would retain jurisdiction here in California." The court added: "He has yet to call. I gave him the telephone number to county counsel. Apparently, he hasn't called." A week later at the jurisdictional hearing, where grandmother pleaded no contest to SSA's dependency petition, the court first advised the parties on the record it had "spoken . . . to a Florida judge, David Gooding, on the telephone. We talked about the transfer to California." The court "indicat[ed] after I talked with the judge was that

[*sic*] we both thought that jurisdiction in California would be appropriate. Of course, I didn't have an official correspondence on that. He was going to have somebody from that county . . . Duval County in Florida — call somebody from county counsel. I do have a three-page document from Florida indicating that Florida gave legal guardianship to [grandmother] . . . ."

Grandmother argues that the somewhat garbled nature of the juvenile court's description of its contact with the Florida court "demonstrates precisely why the UCCJEA requires that communications between the courts be recorded and the parties have access to the record and be allowed to participate." To the extent grandmother suggests a verbatim recording is necessary, she is mistaken. The *C.T.* court expressly disavowed any "verbatim" requirement, holding section 3410(e) "does not require tape recordings or reporter's transcripts of the intercourt conversations." (*C.T., supra*, 100 Cal.App.4th at p. 112.) Rather, as here, a juvenile court's on-the-record description memorializing the communication satisfies section 3410(e) because a reporter's transcript documenting the judge's description constitutes tangible media retrievable by the parties. (*C.T., supra*, 100 Cal.App.4th at p. 112; see 10 Witkin, Summary of Cal. Law (10th ed. 2005) Parent and Child, § 180, p. 251.)

Moreover, grandmother's challenge is misguided because any uncertainty regarding the content of the juvenile court's conversation with the Florida court did not involve the question of jurisdiction, but rather a potential follow-up call to county counsel. The record does not disclose why the Florida judge wanted to telephone county counsel. But, in any event, on the issue of jurisdiction, the courts' mutual conclusion was clear: "we did reach an understanding that I would retain jurisdiction here in California" and "we both thought that jurisdiction in California would be appropriate."

Consequently, grandmother's challenge to the juvenile court's record-keeping of its intercourt communication fails. Simply put, in the face of unambiguous statements by the juvenile court, her assertion that "it cannot be ascertained whether the Florida court was declining jurisdiction" because "the nature of the conversation is unknown" is without merit. Resisting this conclusion, grandmother seizes on the juvenile court's use of variations of the word, "think," to suggest the court's contact with Florida was only informal, unofficial, tentative, not intended to accomplish a change in jurisdiction, and insufficient to do so. Grandmother emphasizes the juvenile court stated: "I *think* we did reach an understanding that I would retain jurisdiction in California" and later stated "we both *thought* that jurisdiction in California would be appropriate." (Italics added.) But the record reveals the juvenile court left no doubt below that the Florida court relinquished jurisdiction, clarifying: "I did speak — I think we put that on the record. We did speak with the judge, and he said we handled it here [*sic*]. So I think that's on the record." True, the juvenile court expressed some doubt it had made an adequate record, noting the possibility of reversal if "the Court of Appeal[] says, well, yeah, you should get a document from Florida saying you can handle it." No such document was necessary; rather, as discussed, intercourt communication sufficed. (§ 3410.) Because the record the juvenile court made satisfied the statutory requirement (see § 3410(e); *C.T.*, *supra*, 100 Cal.App.4th at p. 112), there was no error.

B. *The Juvenile Court Did Not Err in Assuming Continuing Jurisdiction over A.D.*

Grandmother argues the juvenile court abused its discretion by going beyond temporary, emergency jurisdiction to assume continuing jurisdiction over A.D. According to grandmother, the juvenile court should have refused — on grounds California was an inconvenient forum (§ 3427) — the Florida court's invitation to

assume ongoing jurisdiction. Section 3427(b) provides that in determining whether it is an inconvenient forum, "the court shall allow the parties to submit information and shall consider all relevant factors, including: [¶] (1) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child. [¶] (2) The length of time the child has resided outside this state. [¶] (3) The distance between the court in this state and the court in the state that would assume jurisdiction. [¶] (4) The degree of financial hardship to the parties in litigating in one forum over the other. [¶] (5) Any agreement of the parties as to which state should assume jurisdiction. [¶] (6) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child. [¶] (7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present evidence. [¶] (8) The familiarity of the court of each state with the facts and issues in the pending litigation." Grandmother does not assert she was denied the opportunity to submit information on these factors but instead relies on the juvenile court's sua sponte authority to determine it is an inconvenient forum. (See § 3427(a).)

Grandmother complains the juvenile court never "refer[red] to the factors set forth in section 3427, subdivision (b)," but it is the appellant's burden to demonstrate error (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564), and we presume the juvenile court understood and correctly applied the law (*People v. Sangani* (1994) 22 Cal.App.4th 1120, 1138; Evid. Code, § 664). Grandmother cites two of the section 3427(b) factors as supporting continued jurisdiction by the Florida court: A.D. spent most of her life there and the 2001 dependency proceeding there familiarized the Florida court with her and grandmother. Based on these factors, grandmother insists "Florida clearly was the more

convenient forum; it was the state where information pertaining to [A.D.]'s best interests was located."

But the juvenile court could reasonably conclude that because A.D. and grandmother had moved to California, the evidence pertinent to resolving the present dependency was in California, favoring California jurisdiction. The juvenile court also could reasonably conclude jurisdiction remained proper in California after grandmother returned to Florida because it was unclear she intended to remain there, since she returned periodically. By doing so, grandmother tacitly endorsed continuing California jurisdiction, particularly since she never sought to have the court relinquish jurisdiction in favor of Florida. (See § 3427(a) ["The issue of inconvenient forum may be raised upon motion of a party"].) Moreover, the juvenile court was now more familiar than the Florida court with the issues presently affecting A.D., and could reasonably conclude it would be neither expeditious, nor inexpensive, nor in A.D.'s best interests to disrupt her placement and ship the matter all the way to Florida to begin proceedings anew, especially since grandmother held out hope for her to reunify with her parents in California. Consequently, because a multitude of reasons supported the juvenile court's decision to assume and maintain ongoing jurisdiction over A.D., the court did not err in failing sua sponte to decline jurisdiction as an inconvenient forum.

III

DISPOSITION

The juvenile court's order terminating grandmother's guardianship is affirmed.

ARONSON, J.

WE CONCUR:

MOORE, ACTING P. J.

IKOLA, J.